

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
JULY 9, 2004**

The following narrative and summary highlights actions taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on July 9, 2004. The meeting was tape-recorded and the tape is on file at the ABC Commission/Legal Division.

**ROLL CALL**

Chairman Douglas A. Fox was present for the meeting, along with Commissioner Ricky Wright and Commissioner Mike Joyner.

**MINUTES OF JUNE 11, 2004 MEETING**

The Chairman asked Commission Member Ricky Wright and Commission Member Mike Joyner if they had any corrections or additions regarding the Commission minutes from the June 11, 2004, meeting. Neither Commissioner Wright nor Commissioner Joyner had any corrections or additions. The Chairman made a motion to approve and waive the reading of the minutes into the record. Seconded by Commissioner Wright. So Ordered.

**EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST**

As required by Executive Order Number One, the Chairman asked Commissioners Wright and Joyner if there were any known conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Wright and Commissioner Joyner stated that they had no conflict of interest. The Chairman stated he had to recuse himself from the following cases #13 T Bonz Tavern, #23 Souyia, #46 Dominic's Downtown, #50 Billy's Seafood and #51 T J's Gas and Grill.

**I. HEARING CASES - 56**

Chief Deputy Counsel Fred A. Gregory gave some background information on contested case #1, Confetys. Assistant Counsel K. Renee Cowick was the counsel for the ABC Commission. Mr. Gregory stated that the case was scheduled for March 23, 2004, and the petitioner failed to appear for the hearing. A Motion for Summary Judgment was filed. Based on the foregoing Findings of Fact and Conclusions of Law, Chief Administrative Law Judge Julian Mann granted the Motion for Summary Judgment for a 15-day active suspension and pay a monetary penalty of \$500.00. Chief Deputy Counsel Fred Gregory recommended that the Commission adopt Administrative Law Judge Julian Mann's decision. The Chairman made a motion to adopt the decision. Seconded by Commissioner Wright. So Ordered.

Commissioner Wright made a motion to ratify the following cases #13 T Bonz Tavern, #23 Souyia, #46 Dominic's Downtown, #50 Billy's Seafood and #51 T J's Gas and Grill. Seconded by Commissioner Joyner. So Ordered.

Assistant Counsel LoRita K. Pinnix asked that case #22 Zingo Mart 2, which was approved and put on the June Agenda by mistake be put on the August Agenda along with case #40 Melting Pot, which also was on the June Agenda. An employee who didn't have the authority to sign the offer for Melting Pot signed the offer. Ms. Pinnix asked that both cases be put on the August Agenda so that both parties can come and speak to the Commission. The Chairman made a motion that both cases be put on the August Agenda. Seconded by Commissioner Joyner. So Ordered.

Chief Deputy Counsel Fred Gregory stated that the following cases, 5 Star Food Mart and Grocery Door 4, were on the June 11, 2004 Commission meeting and were not served with the Final Agency Decision. Mr. Gregory asked the Commission to amend the Final Agency Decision to reflect the July 9, 2004 effective dates and that Alcohol Law Enforcement would serve the orders. The Chairman made a motion to amend the dates. Seconded by Commissioner Wright. So Ordered.

Assistant Counsel LoRita K. Pinnix stated that she had to discuss with the Commission, case #56 Pantana Bob's. Ms. Pinnix stated that this was a remand from a superior court decision on a Commission decision in a June 2002 Commission meeting. The Commission imposed a 5-day active suspension and \$500.00 fine and they paid the fine, but Attorney William Potter appealed the case in superior court. Superior Court Judge Howard E. Manning, Jr. found some procedural defects in the original petition for hearing and remanded the case back to the Commission to uphold Administrative Law Judge Morrison's original recommended decision, which was to issue a written warning.

The Chairman made a motion to ratify all remaining offers in compromises. Seconded by Commissioner Wright. So Ordered.

The Chairman stated that he had reviewed the first offense cases as per the resolution and made a motion to adopt the orders as signed. Seconded by Commissioner Wright. So Ordered.

**II.** The following is a list of first offense violation cases, in which Orders were signed by the Chairman on July 9, 2004 pursuant to the Commission's authorizing resolution dated November 8, 2002:

A M F Star Lanes 24 – 491 Kenilworth Road, Asheville, NC 28805  
Adams General Store 1 – 7617 Poole Road, Raleigh, NC 27610  
Ahoskie Food Center – 710 North Academy Street, Ahoskie, NC 27910  
C Mini Mart 147 – 1200 Edwards Mill Road, Raleigh, NC 27607  
Cary Tavern and Grill – 928 West Chatham Street, Cary, NC 27511  
Chips – 200 North Wadesboro Street, Mount Gilead, NC 27306

Dave's Place – 679 US 13 South, Eure, NC 27935  
Double Diamond Sports Bar – 1610 West 5<sup>th</sup> Street, Washington, NC 27889  
Duck Thru Food Store 12 – 800 North Academy Street, Ahoskie, NC 27910  
Eckerd Drugs 1127 – 1825 East 10<sup>th</sup> Street, Roanoke Rapids, NC 27807  
Eckerd Drugs 3544 – 409 North Main Street, Kernersville, NC 27284  
Exprezit Convenience Store 216 – 5035 Hwy. 70, Morehead, NC 28557  
Fast Phils 3 – 1402 North Center Street, Statesville, NC 28677  
Food Lion 659 – 1043 East Caswell Street, Wadesboro, NC 28170  
Food Lion 1194 – 2021 Lipscomb Road, Wilson, NC 27893  
Food Lion 721 – 4106 Raeford Road, Fayetteville, NC 28305  
Four Way Grocery – 7383 Stoney Point Road, Fayetteville, NC 28306  
Harris Teeter 26 – 7400 Creedmoor Road, Raleigh, NC 27612  
Harris Teeter 171 – 1621 North Sardis Road, Charlotte, NC 28270  
Hills Convenient Store – 4391 Charles Boulevard, Greenville, NC 27858  
Huff's Gibsonville – 223 West Main Street, Gibsonville, NC 27249  
Las Palmeras Mexican Restaurant of Shallotte, 4810 Main Street, Shallotte, NC 28459  
Pantry 486 – 6605 Raeford Road, Fayetteville, NC 28304  
Pizza Hut – 1204 School Street, Wilkesboro, NC 28697  
Pizza Hut of Morganton – 520 West Fleming Drive, Morganton, NC 28655  
Trade Mart 62 – 100 Broad Street, Fuquay-Varina, NC 27526  
Quick Stop 3022 – 2326 Owen Drive, Fayetteville, NC 28306  
Quick Stop 3052 – 6777 Raeford Road at Graham Road, Fayetteville, NC 28304  
Riverside Steak Bar – 2301 Stantonsburg Road, Greenville, NC 27834  
Sam's Mart 15 – 9025 Mallard Creek Road, Charlotte, NC 28262  
Wilco 201 – 1213 Airport Road, Chapel Hill, NC 27514

### **III. OTHER BUSINESS**

Administrator Michael Herring stated that he had a written request from Thomas Scanlon, Vice President of LB&B Associates, Inc. seeking a price adjustment in accordance with Part III, Section 28 of the ABC Warehouse contract. It allows the contractor to submit a written request in June of each year with documentation of increased cost. Mr. Herring presented the written request to the Commission. He went on to state that they have experienced substantial increase in the price of fuel, along with an increase in case shipments for the last few years. They are looking at increasing staffing and additionally they have not given their employees pay raises and they are looking to do that. Mr. Herring requested that the Commission allow him to negotiate with LB&B and bring this back before the Commission on a later date along with some people from LB&B so that they can outline what their needs are. Mr. Herring further stated that the Warehouse now has a generator and if power is lost, the generator will come on and we will be able to ship 24 hours a day, seven days a week. Commissioner Joyner asked what was the process for increasing the bailment. Mr. Herring stated that the Commission makes that decision. The Chairman asked Cas Castaneda if he would keep track of how full the trucks are for the next two weeks and let him know.

The Chairman made a motion that the request from LB&B Associates, Inc., be put on the August Agenda. Seconded by Commissioner Joyner. So Ordered.

The Chairman asked the Commissioners if they had a chance to review the transcripts regarding the Greensboro ABC Store location. Commissioner Joyner stated that he had. Commissioner Wright stated that he had reviewed the transcript. Mr. Herring stated that he had received the maps and documentation that was presented at the last meeting for the Commission's review. He further stated that a trip is being planned toward the end of the month to view the site and if the Commissioner's would like to go along, they may.

Mr. Herring stated that he had one more item to update the Commission on. The Commission has signed a contract with the Drake Associates, personnel consultants. They will evaluate all ABC job descriptions, which were probably last written 20 years ago.

With no further business, the meeting adjourned.

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Douglas A. Fox  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

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Tiffany C. Goodson, Legal Division